



7-14-05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:

Serial No.: 09/743,938)
Ralf Fuchs et al.)
Filed: March 28, 2001)
Art Unit: 1734)
Examiner: Brenda A. Lamb)
For: **DEVICE FOR SIZING A YARN SHEET**)
Docket No. 020981.010)
Customer No. 21878)

Charlotte, North Carolina July 13, 2005

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

NOTICE UNDER 37 CFR 1.251—Pending Application

This is in response to the Office Action of May 19, 2005 seeking to reconstruct the file of the above-identified application pursuant to the provisions of 37 CFR 1.251.

Remarks begin on page 2 of this paper.

CERTIFICATE OF MAILING:

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DATE OF DEPOSIT: July 13, 2005

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, POST OFFICE BOX 1450; ALEXANDRIA, VA 22313-1450

TYPED NAME: Marcia Siuda

SIGNATURE Marcia Siuda

REMARKS

In the Office Action, Applicants have been requested to aid the U.S. Patent and Trademark Office ("USPTO") in reconstructing the above-identified application by supplying a copy of a "Request for Extension of Time," allegedly dated 6/17/04.

As indicated in several telephone conversations with personnel in the U.S. Patent and Trademark Office, Applicant has no record of a "Request for Extension of Time" being filed at any time during 2004. More importantly, it is Applicants' belief that no such request was ever made.

More specifically, as discussed (for example) in a telephone conversation with Tracy Hale-Lee (a USPTO employee) on May 13, 2005, the "phantom" request for a time extension stems from an accidental entry, by USPTO personnel, of a three-month extension of time request made sometime after an RCE was initially filed November 18, 2003, and then subsequently re-filed on June 17, 2004.

As explained below, no extension of time was necessary at that time, and thus Applicants did not file a request for such an extension. Nonetheless, the USPTO mistakenly entered such a request and debited Applicants' representative's Deposit Account in the amount corresponding to a three-month extension of time request. Applicants' representative subsequently sought, and has received, a refund of this amount, and Applicants believe that this matter has been settled appropriately.

Nonetheless, additional confusion appears to exist with regard to the phantom extension of time request. It is hoped that this written explanation of the events leading to this error will put this matter to rest once and for all.

The confusion itself is resulted from the following circumstances. On August 25, 2003, Applicants filed a response to an Office Action that was dated July 1, 2003. On October 2, 2003, an Advisory Action was mailed; in the Advisory Action, the Examiner refused to enter amendments in the 8/25/03 response. Thus, Applicants re-filed the arguments and amendments in an RCE dated November 18, 2003. However, the USPTO found the RCE to be non-compliant and apparently mailed a notice to that effect on January 12, 2004.

Unfortunately, in the meantime, the Applicants' representative relocated its office and the U.S. Postal Service's forwarding order had expired, so the Notice of Non-Compliant RCE was never received. In a telephone conversation between Applicants' representative and a USPTO representative named Ann Pollard on March 19, 2004, this problem was discussed, and ultimately Ms. Pollard indicated that she would re-mail the Notice and would "re-start" the time period for response to that Notice. A new Notice of Non-Compliant RCE was then mailed on June 10, 2004.

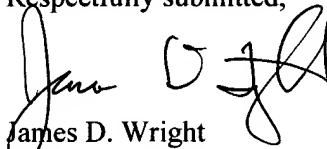
Upon receiving the new Notice of Non-Compliant RCE, Applicants immediately filed an RCE including the arguments and amendments that had previously been filed in the RCE that Applicants had attempted to file on 11/18/03. This was accepted by the USPTO. Further, because it was filed within the period set for reply in the second Notice of Non-Compliant Amendment (dated 6/10/04, the period set for reply ending 7/10/04), no extension of time was needed.

Unfortunately, through the error of the USPTO, a three-month extension of time was somehow entered in the file and the deposit account was debited as described above.

Thus, it is Applicants' belief that the sought-for "Request for Extension of Time dated 6/17/04" does not, and has never, existed.

Please contact the undersigned if there are any further questions in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James D. Wright', written over the typed name.

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